

31 March 2026

Final report by the Complaints Commissioner**Complaint number 202500277***The complaint*

1. On 07 June 2025 you submitted a complaint to my office about the FCA.
2. I have summarised your complaint as follows:
3. The FCA acted unlawfully by allowing an authorised firm MoneyThing Capital Limited (“MoneyThing”) to carry on peer-to-peer (“P2P”) lending activity for approximately two years without holding the specific Part 4A permission required to conduct P2P activities i.e. the operation of an electronic system in relation to lending (Article 36H of the Regulated Activities Order (“RAO”).

Outcome: Not upheld*Background*

4. MoneyThing was a UK P2P lending platform that operated an online marketplace matching investors with business and asset-backed loans, including loans secured against property and other valuables.
5. MoneyThing previously held an Office of Fair Trading (“OFT”) licence in respect of its consumer credit activity, and it registered with the FCA for interim consumer credit permissions to continue carrying out those activities in 2014 as part of the transition when regulation of the consumer credit sector moved from the OFT to the FCA. Neither its OFT licence nor its interim permissions covered P2P lending. It had not, at that point, sought such interim permissions nor had it even informed the FCA that it was undertaking P2P activity. It did, later, notify the FCA voluntarily at the start of 2015 as part of its application to become fully authorised.

6. The FCA engaged with MoneyThing over the ensuing two years while it remained on the interim permissions register. During this period, the FCA engaged with MoneyThing on a number of areas prior to authorisation to ensure it had made the necessary changes to enable it to meet the conditions for authorisation.
7. In March 2017, the FCA granted MoneyThing the requisite permissions to operate as a regulated P2P platform. MoneyThing later entered wind-down in late 2019 and ultimately went into administration in December 2020.
8. You were one of a number of complainants who submitted a complaint to my office about the FCA's oversight of MoneyThing in 2024. I issued a report on that complaint¹ in which the question of MoneyThing operating outside its regulatory permissions arose. However, the allegation considered at that time was that the FCA should not have authorised the firm in 2017 in the first place, rather than a submission that the FCA lacked statutory authority to permit its activities.
9. In that report, I did not uphold the complaint that the FCA ought not to have authorised MoneyThing. I concluded that the FCA's decision to grant authorisation was not unreasonable, although I noted that the "*FCA took a very long time to authorise the firm (over two years) during which time P2P clients were being onboarded. I have not determined that there was any detriment to these clients due to the delay, however, I raise this point to highlight that prolonged authorisation processes have the potential to lead to consumer detriment, although I have not found that this happened here*".
10. Your current complaint is that, in allowing MoneyThing to operate and advertise its P2P activities and take on new customers for over two years without the necessary permissions, the FCA acted beyond the scope of its statutory powers and therefore unlawfully.

¹ <https://frccommissioner.org.uk/wp-content/uploads/The-Complaint-Commissioners-Final-Report-into-the-Financial-Conduct-Authoritys-Oversight-of-Moneything-Issued-21-June-2024.-Published-18-July-2024-2.pdf>

Analysis

11. The FCA reviewed your complaint twice. It issued a decision letter on 19 July 2024 which you referred to me. I did not think the FCA had answered your allegation fully and therefore I suggested that the FCA review it again. The FCA issued its second decision on this allegation on 28 March 2025.
12. In my view, the FCA has again failed to address your allegation in full. In particular, it has not explained whether it considered that, in permitting MoneyThing to operate a peer-to-peer lending platform without the requisite permissions, it had acted beyond its statutory authority. Instead, it has advanced reasons as to why it was reasonable to grant authorisation, rather than addressing the separate question of whether its actions were lawful.
13. In doing so, it has relied on new arguments which do not engage with the substance of the issue, including the following:

“If MoneyThing had carried out P2P activity, having held an appropriate licence from the Office of Fair Trading (OFT) before 1 April 2014, and notified the FCA accordingly, then they would have been granted interim permissions for the relevant activity from 1 April 2014 onwards. Our assessment of MoneyThing during our consideration of the firm was that it was acting in accordance with our P2P requirements, save only for the fact that they had not made the declaration which would have led to their being automatically granted those interim permissions”.
14. This response led you to question the factual premise underlying the FCA’s position — namely, whether MoneyThing in fact undertook P2P activity prior to the regulatory transition. If it did not, then it would not have been transferring that activity into the FCA’s regime, and mere notification would not have been sufficient to secure interim permission.
15. I have not undertaken a detailed review of the precise date on which MoneyThing commenced P2P activities. In my previous report, I recorded that the firm had begun such activities and notified the FCA in 2015, but no formal finding was made as to when those activities first started.
16. In any event, this line of argument is hypothetical and does not go to the substance of the complaint, which concerns the lawfulness of the FCA’s actions

rather than the counterfactual basis on which interim permission might have been obtained.

17. I am critical of the FCA's handling of your complaint overall, for the reasons above, and I will return to this when I address the issue of remedy.
18. Rather than referring the complaint to the FCA for a third review, I have instead engaged directly with it to obtain the information necessary to address the issues you have raised.
19. The essence of your complaint is that MoneyThing did not hold the relevant permission; that the FCA was aware of this; and that by allowing the activity to continue and new customers to be onboarded, the FCA acted unlawfully.

Relevant Legal Framework

General Prohibition

20. Under section 19 of the Financial Services and Markets Act 2000 ("FSMA"), a person must not carry on a regulated activity in the United Kingdom unless authorised or exempt.
21. An authorised firm must act within the scope of its Part 4A permission. If it carries on a regulated activity outside its permission, it contravenes the general prohibition.

Criminal Liability Under Section 23 FSMA

22. Section 23 FSMA provides that contravention of the general prohibition may constitute a criminal offence. For unauthorised persons, a breach of the general prohibition will usually constitute a criminal offence. I am in discussion with the FCA to determine what options may be available in such circumstances; however, those discussions are not yet concluded.
23. That said, the outcome of these discussions does not affect the substance of your complaint, and I have therefore decided to proceed with issuing the Final Report. This is because your complaint concerns a firm that was authorised but is alleged to have acted outside the scope of its permissions, which is distinct from a situation involving an unauthorised firm carrying on regulated activities.

24. For authorised persons, criminal liability is limited. Under section 23(1A), an authorised person does not commit a criminal offence unless it carries on a “credit-related regulated activity” in the UK otherwise than in accordance with its Part 4A permission.
25. Therefore, an authorised firm acting outside its permissions does not automatically commit a criminal offence. Criminal liability arises only if the activity is a designated “credit-related regulated activity” within the meaning of the relevant Treasury Order.
26. P2P activity under Article 36H RAO (“operating an electronic system in relation to lending”) is not designated as a “credit-related regulated activity” for the purposes of section 23(1A).
27. Therefore, while operating such activity without the correct permission would constitute a breach of the general prohibition, it would not amount to a criminal offence under section 23.

Regulatory Enforcement

28. Where an authorised firm breaches its Part 4A permission by carrying on regulated activities outside of its scope in circumstances not amounting to a criminal offence, the matter falls within the FCA’s regulatory and supervisory jurisdiction.
29. The FCA has a range of civil powers available, including:
 - a. Varying or cancelling permissions;
 - b. Imposing requirements;
 - c. Issuing public censures;
 - d. Imposing financial penalties;
 - e. Seeking injunctions or restitution orders.
30. The exercise of those powers involves supervisory judgment and regulatory discretion, guided by the FCA’s statutory objectives, including consumer protection and market integrity.

31. There is no requirement that the FCA must immediately suspend or prohibit activity upon identifying a breach. The legislation provides the FCA with discretion as to if and when to exercise its powers.
32. I now turn to the specific situation of MoneyThing and the FCA's oversight. If an authorised firm having interim permission to conduct other regulated activities carried on Article 36H P2P activity without the relevant Part 4A permission, that would constitute a breach of regulatory rules by the firm which is treated as a civil matter by the FCA. It is not a criminal offence as P2P activity is not designated as "credit-related regulated activity" under Section 23 (1A).
33. The FCA's role in such circumstances is supervisory. The FCA has discretion as to how to respond to regulatory breaches. This may include:
 - a. Engaging with the firm;
 - b. Requiring the firm to regularise its permissions;
 - c. Imposing requirements;
 - d. Taking formal enforcement action where appropriate.
34. In this case, the FCA decided to allow its P2P activities to continue subject to FCA oversight whilst MoneyThing was applying for full authorisation for its activities.
35. The mere fact that the FCA did not immediately prevent the firm from continuing the activity does not of itself render the FCA's conduct unlawful.
36. In conclusion, I consider that the FCA's interpretation is consistent with a reasonable reading of the statutory provisions. Even if the firm operated P2P activity without the appropriate Part 4A permission for a period of time, that would amount to a regulatory breach by the firm rather than constitute a criminal offence under section 23 (1A) FSMA.
37. Moreover, the legislation effectively confers discretion on the FCA as to how it responds to regulatory breaches; it does not impose an automatic duty to take immediate prohibitive action. For the reasons above, I am not persuaded that the FCA acted unlawfully. While only a court could provide a definitive and binding interpretation of the legislation, in my view the FCA's interpretation does not appear unreasonable. Therefore, I do not uphold your complaint.

Recommendation

38. I have explained above that I consider the FCA's handling of your complaint fell below the standard I would have expected. In particular, it took an excessive period of time to issue its two decision letters, and neither letter fully addressed the central issue you had raised. I note that the FCA has apologised and offered you £100 in recognition of the delay in its complaint handling. You have indicated that you consider the FCA should instead compensate you for the financial losses you incurred as an investor in MoneyThing. However, as I have not upheld your complaint in respect of the substance of the FCA's regulatory actions, I cannot recommend that the FCA compensate you for investment losses.
39. That said, I consider the FCA's repeated failure to address the crux of your complaint in its decision letters amounts to additional shortcomings in its complaint handling. In my view, a modest further payment is appropriate to recognise the inconvenience and frustration caused. I therefore recommended that the FCA offer you an additional £50, bringing the total compensatory payment for complaint handling failings to £150 which the FCA has accepted. I note your comments on my Preliminary Report requesting that the total compensation be increased, however I consider that the amount of £150 is sufficient and consistent with compensatory payment levels for complaints handling issues such as yours.
40. For the reasons set out above, I do not uphold your complaint.

The Complaints Commissioner

Complaints Commissioner

31 March 2026